1 2 3 4 5 6 7	EDMUND G. BROWN JR. Attorney General of California GLORIA A. BARRIOS Supervising Deputy Attorney General M. TRAVIS PEERY Deputy Attorney General State Bar No. 261887 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-0962 Facsimile: (213) 897-2804 Attorneys for Complainant  BEFORE THE BOARD OF REGISTERED NURSING
8	DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
10	In the Matter of the Accusation Against: Case No. 2011-9
11	FLOYD LEON VIGIL
12	12212 Vienna Dr., NE Albuquerque, NM 87111 A C C U S A T I O N
13	Registered Nurse License No. 438009
14	Respondent.
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16	Complainant alleges:
17	PARTIES
18	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19	official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20	of Consumer Affairs.
21	2. On or about March 31, 1989, the Board of Registered Nursing issued Registered
22	Nurse License Number 438009 to Floyd Leon Vigil (Respondent). The Registered Nurse License
23	was in full force and effect at all times relevant to the charges brought herein and will expire on
24	September 30, 2010, unless renewed.
25	JURISDICTION
26	3. This Accusation is brought before the Board of Registered Nursing (Board),
27	Department of Consumer Affairs, under the authority of the following laws. All section
28	references are to the Business and Professions Code unless otherwise indicated.

#### STATUTORY PROVISIONS

- 4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.
  - 6. Section 2761 states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.
- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
- 7. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

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#### COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## FIRST CAUSE FOR DISCIPLINE

## (Out-of-State Discipline)

- 9. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), in that effective July 30, 1993, before the Alabama Board of Nursing, in the case entitled, *In the Matter of Floyd Leon Vigil, License No: 2-20488*, attached hereto as **Exhibit A**, Respondent's Alabama Nursing License Number 2-20488 which was issued on May 14, 1979, was revoked. The circumstances are as follows:
- 10. On or about May 21, 1990, Respondent's Licensed Practical Nurse license was revoked by the Texas Board of Vocational Nurse Examiners. The circumstances of the revocation are that on or about October 11, 1984, in the District Court of El Paso County, Texas, Case No. 860D08136, Respondent was found guilty by a jury and was convicted of one felony count of Burglary of a Habitation with Commission of Sexual Assault. Respondent was sentenced to twenty-five (25) years imprisonment.

# SECOND CAUSE FOR DISCIPLINE

# (Conviction of a Substantially Related Crime)

11. Respondent is subject to disciplinary action under section 2761, subdivision (f), in that he was convicted of a crime substantially related to the qualifications, functions, or duties of a registered nurse. Complainant refers to and incorporates all the allegations contained in paragraph 10, as though set forth fully.

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### **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 438009, issued to Floyd Leon Vigil;
- 2. Ordering Floyd Leon Vigil to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
  - 3. Taking such other and further action as deemed necessary and proper.

DATED: July 1, 2010

LOUISE R. BAILEY, M.ED., RN

Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs

State of California Complainant